IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION.

Suit No. 1265 of 1982.

The Cotton Corporation of India Ltd.
..Plaintiffs.

Versus.

M/s. Andre & CIE N.A. ..Defendants.

Mr. Mahajn i/b M/s. Divekar & Co.for plaintiff.
None for the defendants.

CORAM: V.C. DAGA J.
DATED: 16.02.2006.

P.C.:-

. In view of the reference of the dispute to the Arbitration, pursuant to the agreement between the parties, the suit shall not survive.

. Sub Section (2) of Section 23 of the Arbitration Act, 1940 provides that where the matter is referred to the Arbitration, Court shall not, save in the manner and to the extent provided in the Act, deal with such matter in the suit. Meaning thereby once the dispute raised in the suit is referred to the Arbitration; then the Scheme of Arbitration Act, 1940 will have to be followed. All further proceedings shall be as per the provisions of the Arbitration Act. The proceedings of the suit would come to an end.

. In this view of the matter, since the dispute has already been referred to the Arbitration; and the

Arbitrators have already passed their Award which is the subject matter of the appeal provided in the arbitration clause itself the suit proceedings shall not survive. Hence following order.

O R D E R.

. Suit stands disposed of, without prejudice to the rights of the parties to proceed with the Arbitration in accordance with the provisions of the Arbitration Act,1940, keeping all their contentions open.

. Suit stands disposed of in terms of this order with no order as to costs.

V.C.DAGA.J.